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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,546	07/22/2003	Germanus Kong	T937242.1	6038
7590	11/04/2004		EXAMINER	
Grant W. C Tisdall Suite 4900 Commerce Court West Toronto, ON M5L 1J3 CANADA			KATCHEVES, BASIL S	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 11/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	KONG, GERMANUS	
10/623,546		
Examiner Basil Katcheves	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 22 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: Marked fig. 1.

**DETAILED ACTION**

***Claim Objections***

Claim 16 is objected to for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 14 is drawn to a subcombination frame kit. However, claim 16 is drawn to a frame kit and a catch basin opening, appearing to be a combination. The examiner has examined claim 16 as being drawn to the subcombination frame kit. Clarification by the applicant is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,164,105 to Herbst et al.

Regarding claim 1, Herbst discloses a barrier of variable dimension (figs. 3a; 4 & 5) comprised of a planar frame. Herbst discloses the barrier as having a first member with a base and pair of tabs (marked fig. 1) making a female connector. Herbst also discloses a second member having a pair of flanges (marked fig. 1) making a male connector, the tabs overlapping the flanges (fig. 2), a plurality of channel portions

(marked fig. 1) for making a continuous channel around the frame and an insect screen (column 4, lines 9-10) closing the opening of the frame.

Regarding claim 2, Herbst discloses the overlap of tabs and flanges as providing a frictional fit between members (fig. 2: see snap fit 42 of first and second members).

Regarding claim 3, Herbst discloses a supplementary fastener for securing the frame (fig. 1: 7).

Regarding claim 4, Herbst discloses a mechanical fastener comprised of a screw (fig. 1: 7).

Regarding claim 5, Herbst discloses the channel (marked fig. 1) as having an entrance which faces the interior of the frame (marked fig. 1: arrow).

Regarding claim 6, Herbst discloses the first member (fig. 1: 4) as being a corner member (fig. 1: 23) and the second member as being a side member (fig. 2: see 4 extending along side).

Regarding claim 9, Herbst discloses the channel portion (marked fig. 1) as being an extension of a tab (marked fig. 1).

Regarding claim 10, Herbst discloses the second member as being a key (fig. 1: 42) for joining two adjacent first members (fig. 2: see adjacent first members 1 & 23 joined by 4 & 42).

Regarding claim 11, Herbst discloses the second member as being at a corner (fig. 2: 4) and the first member as being at a side (fig. 2: 1).

Regarding claim 12, Herbst discloses the key (fig. 3: 42) member as being connected to a base (fig. 3: connected to base of 4) of the corner member (see rejection

of claim 11 for corner member) and a male connector (fig. 3: vicinity of 12) at the other end.

Regarding claim 13, Herbst discloses the key (fig. 3: 42) as providing an abutment of the channel portion (fig. 3: see abutment of channel in 1 abutted with key of 4).

Regarding claim 14, Herbst discloses a grouping of parts which make a barrier of variable dimension (figs. 3a, 4 & 5) comprised of a planar frame. Herbst discloses the barrier as having a first member with a base and pair of tabs (marked fig. 1) making a female connector. Herbst also discloses a second member having a pair of flanges (marked fig. 1) making a male connector, the tabs overlapping the flanges (fig. 2), a plurality of channel portions (marked fig. 1) for making a continuous channel around the frame and an insect screen (column 4, lines 9-10) closing the opening of the frame.

Regarding claim 15, Herbst discloses the use of a screen in the frame (column 4, lines 9-10).

Regarding claim 16, the frame group of Herbst is capable of use with a catch basin opening.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,164,105 to Herbst et al.

Regarding claim 7, Herbst does not disclose a side length as being variable. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herbst by trimming the side lengths, as trimming frame members on site is common in the art in order to fit the frame to particular variances in applications.

Regarding claim 8, Herbst discloses four right angle corner members (fig. 3a: 2) and at least four side members (fig. 3a: 4).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to screen frames in general.

Art Unit: 3635

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

  
Basil Katcheves

BK

11/01/04

Examiner AU 3635

